S.B. Civil Writ Petition NO.2356/2005

Boota Singh

vs

Addl. District Judge, Anoopgarh & Ors.

DATE OF ORDER : - 21.4.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.RK Singhal, for the appellant.

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Heard learned counsel for the petitioner.

In a suit for specific performance of contract, defendant-respondent filed the written statement taking the pleas that he never entered into the agreement for sale of the property and he also took a plea that in fact,the land in question was given on 'Thekka' basis and the plaintiff obtained signature in that transaction. The defendant also took a plea that he already filed the suit for possession against the plaintiff in the revenue court and also submitted that he initiated the criminal proceedings.

According to learned counsel for the petitioner, the petitioner is required to file additional pleading to meet with the allegations of the

defendant.

Looking to the facts of the case, the petitioner's pleading clearly rules out any possibility of any other transaction by his own specific pleading that the document in question was executed with intention to sell the property in favour of the plaintiff and the defendant's plea that the document was executed not with intention to sell the property, but for giving the land in question on 'Thekka' basis to the plaintiff is only a denial of the allegation of the plaintiff, therefore, looking to the plea originally taken by the plaintiff in his plaint, he certainly has right to prove his case as well as has right to prove the stand of the defendant as false, which needs no other pleading because the plaintiff only denied the allegations levelled against the defendant in the plaint. The other pleas also are more or less legal one or about the facts, which are recorded in the police proceedings etc.

In view of the above, if the trial court has not allowed the petitioner to file the written statement, the trial court has not committed any illegality.

Before parting, it will be worthwhile to mention here that to challenge the order passed in a civil suit under Order 8 Rule 9 CPC, the petitioner had to file the copy of the plaint, written statement,

affidavits and his application under Order 8 Rule 9 CPC. These documents are in 49 pages and made this writ petition running in 64 pages. Be that as it may, I do not find any merit in the writ petition. Hence, the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-